

for the tenant-based programs to HUD field offices.

(b) *Section 213(d) allocation.* (1) Section 213(d) of the HCD Act of 1974 (42 U.S.C. 1439) establishes requirements for allocation of assisted housing budget authority. Some budget authority is exempt by law from allocation under section 213(d). Unless exempted by law, budget authority for the tenant-based programs must be allocated in accordance with section 213(d).

(2) Budget authority subject to allocation under section 213(d) is allocated in accordance with 24 CFR part 791, subpart D. There are three categories of section 213(d) funding allocations under part 791 of this title:

(i) funding retained in a headquarters reserve for purposes specified by law (e.g., settlement of litigation);

(ii) funding incapable of geographic formula allocation (e.g., for renewal of expiring funding increments); or

(iii) funding allocated by an objective fair share formula. Funding allocated by fair share formula is distributed by a competitive process.

(c) *Competitive process.* For budget authority that is distributed by competitive process, the Department solicits applications from HAs by publishing one or more notices of funding availability (NOFA) in the FEDERAL REGISTER. See 24 CFR part 12, subpart B; and 24 CFR 791.406. The NOFA explains how to apply for assistance, and specifies the criteria for awarding the assistance. The NOFA may identify any special program requirements for use of the funding.

**§ 982.102 HA application for funding.**

(a) An HA must submit an application for program funding to HUD at the time and place and in the form required by HUD.

(b) For competitive funding under a NOFA, the application must be submitted by an HA in accordance with the requirements of the NOFA.

(c) The application must include all information required by HUD. HUD requirements may be stated in the HUD-

required form of application, the NOFA, or other HUD instructions.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23859, Apr. 30, 1998]

**§ 982.103 HUD review of application.**

(a) *Processing applications.* (1) HUD will provide opportunity for the chief executive officer of the unit of general local government to review and comment on an application for funding for more than 12 units. The local comment requirements are stated in 24 CFR part 791, subpart C.

(2) For competitive funding under a NOFA, HUD must evaluate an application on the basis of the selection criteria stated in the NOFA, and must consider the HA capability to administer the program.

(3) HUD must consider any comments received from the unit of general local government.

(b) *Approval or disapproval of HA funding application.* (1) HUD must notify the HA of its approval or disapproval of the HA funding application.

(2) When HUD approves an application, HUD must notify the HA of the amount of approved funding.

(3) For budget authority that is distributed to HAs by competitive process, documentation of the basis for provision or denial of assistance is available for public inspection in accordance with 24 CFR 12.14(b).

**Subpart D—Annual Contributions Contract and HA Administration of Program**

SOURCE: 60 FR 34695, July 3, 1995, unless otherwise noted.

**§ 982.151 Annual contributions contract.**

(a) *Nature of ACC.* (1) An annual contributions contract (ACC) is a written contract between HUD and an HA. Under the ACC, HUD agrees to make payments to the HA, over a specified term, for housing assistance payments

to owners and for the HA administrative fee. The ACC specifies the maximum annual payment by HUD, and the maximum payment over the ACC term. The HA agrees to administer the program in accordance with HUD regulations and requirements.

(2) HUD's commitment to make payments for each funding increment in the HA program constitutes a separate ACC. However, commitments for all the funding increments in an HA program are listed in one consolidated contractual document called the consolidated annual contributions contract (consolidated ACC). A single consolidated ACC covers funding for the HA certificate program and voucher program.

(b) *Budget authority and contract authority.* (1) Budget authority is the maximum amount that may be paid by HUD to an HA over the ACC term of a funding increment. Contract authority is the maximum annual payment for the funding increment. Budget authority for a funding increment is equal to contract authority times the number of years in the increment term. Before adding a funding increment to the consolidated ACC for an HA program, HUD reserves budget authority from amounts authorized and appropriated by the Congress for the program.

(2) For each funding increment, the ACC specifies the initial term over which HUD will make payments for the HA program, and the contract authority and budget authority for the funding increment. For a given HA fiscal year, the amount of HUD's maximum annual payment for the HA program equals the sum of the contract authority for all of the funding increments under the consolidated ACC. However, this maximum amount does not include contract authority for an expired funding increment. If the term of a funding increment expires during the HA fiscal year, this maximum amount only includes the pro-rata portion of contract authority for the portion of the HA fiscal year prior to expiration. (Additional payments may be made from the ACC reserve account described in §982.154.) However, the amount to be paid must be approved by

HUD, and may be less than the maximum payment.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

#### §982.152 Administrative fee.

(a) *Purposes of administrative fee.* (1) HUD may approve administrative fees to the HA for any of the following purposes:

- (i) Ongoing administrative fee;
- (ii) Preliminary fee;
- (iii) Cost to help families who experience difficulty renting appropriate housing;
- (iv) Cost to coordinate supportive services for elderly and disabled families;
- (v) Cost to coordinate supportive services for families participating in the family self-sufficiency (FSS) program;
- (vi) Cost of audit by an independent public accountant; and
- (vii) Other extraordinary costs determined necessary by HUD Headquarters.

(2) For each HA fiscal year, administrative fees are specified in the HA budget. The budget is submitted for HUD approval. Fees are paid in the amounts approved by HUD. Administrative fees may only be approved or paid from amounts appropriated by the Congress.

(3) HA administrative fees may only be used to cover costs incurred to perform HA administrative responsibilities for the program in accordance with HUD regulations and requirements.

(b) *Ongoing administrative fee.* (1) The HA ongoing administrative fee is paid for each program unit under HAP contract on the first day of the month. The amount of the ongoing fee is established by HUD.

(2) If appropriations are available, HUD may pay a higher ongoing administrative fee for a small program or a program operating over a large geographic area. This higher fee level will not be approved unless the HA demonstrates that it is efficiently administering its tenant-based program, and that the higher ongoing administrative